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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,028	02/04/2002	Manish Mangal	1802	4999

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EXAMINER

GESESSE, TILAHUN

ART UNIT

PAPER NUMBER

2684

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/067,028	Applicant(s) MANGAL ET AL.	
	Examiner Tilahun B. Gesessse	Art Unit 2684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 7-17 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18 is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/23/05 has been entered.

Response to Arguments

2. Applicant's arguments filed 9/23/05 have been fully considered but they are not persuasive.

On page 7, first paragraph, applicant in response to final office action argued that Maggenti et al (US patent No. 6,477, 15) does not teach a mobile station buffering initial speech until establishment of an initial RTP leg over which to transmit the speech, and Maggenti further fails to teach a PTT server buffering initial speech until establishment of a terminating RTP leg over which to transmit the speech.

The examiner, disagrees, with applicant's remark. The claim recite as presented to after final amendment :

"buffering the initial real-time media signal until an RTP leg is established over which to send the initial real-time media signal along its way toward the second station; and thereafter sending the initial real-time media signal along its way toward the second station."

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., buffering initial speech over which to transmit speech and a PTT server buffering initial speech until establishment of a terminating RTP leg over which to transmit the speech.) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

On page 7, third paragraph applicant's response to the office action , admits that Maggenti teaches "having an initiating communication device (CD) buffer media until the initiating CD receives a floor-grant message from the communication manager (CM) indicating that the CD has the floor."

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Maggenti.

Regarding claim 1 Maggenti teaches In a communication system (see figure 1) in which a first station (CD 202) initiates communication with at least a second station and provides an initial real-time media signal for transmission to the second station wherein the initial real-time media signal comprises an initial real-time media stream of a packet-based real-time media session between the first station and the second station (column 8, lines 1 1-26 and figures 7-10) a method comprising: Maggenti discloses buffering (622 of figure 6) the initial real-time media signal until a transmission path exists to send the initial real-time media signal along its way toward the second station column 36, lines 39-51 and figure 6) and thereafter sending the initial real-time media signal along its way toward the second station (column 36, lines 39-51 and figure 6) Regarding claims 2 and 4, Maggenti teaches the first station (CD 202) sends the real-time media signal to an intermediate entity, and the intermediate entity sends the real-time media signal along its way toward the second station column 8, lines 1 1-26 and figures 7-10).,

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buffering (622 of figure 6) the initial real-time media signal until a transmission path exists to send the initial real-time media signal along its way toward the second station comprises buffering the initial real-time media signal in the first station until a transmission path exists to send the initial real-time media signal from the first station to the intermediate entity (CM) column 36, lines 39-51 and figure 6) and sending the initial real-time media signal along its way toward the second station comprises sending the initial real-time media signal from the first station to the intermediate entity column 36, lines 39-51 and figure 6) . Regarding claims 3 and 5, Maggenti discloses the intermediate entity (CM 81) comprises a communication server that establishes second station and bridges the RTP legs respective RTP legs with the first station and the together (column 4 lines 26- 47 and column 8, line 11-26)., and wherein buffering (622 of figure 6) the initial real-time media signal in the first station until a transmission path exists to send the initial real-time media signal from the first station to the intermediate entity comprises: buffering the initial real-time media signal in the first station until an RTP leg has been established between the first station and the communication sever (column 36, lines 39-51 and (column 36, lines 39-51 and figure 6) .

Regarding claim 6, Maggenti discloses the first station is a mobile station (see figure 4).

Double Patenting

5. - The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent

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and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 1-6 and 18 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 6,865,398. Although the conflicting claims are not identical, they are not patentably distinct from each other because the conflict claims are broader than the patented claims.

Since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent. The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter.

Allowable Subject Matter

6. Claim 8 is allowed over the prior art .

The following is an examiner's statement of reasons for allowance: the prior art does not teach the combined feature of claim 8, "the initiating mobile station receiving an initiating user's speech signal and buffering the initiating user's speech signal in a mobile station buffer; while buffering the initiating user's speech signal, the initiating mobile station working to establish an initiating RTP leg with a PTT server; the initiating mobile station buffering the initiating user's speech signal until the initiating RTP leg is established; in response to establishment of the initiating RTP leg with the PTT server, the initiating mobile station transmitting the initiating user's speech signal from the mobile station buffer via the initiating RTP leg to the PTT server; the PTT server receiving the initiating user's speech signal and buffering the initiating user's speech signal in a PTT server buffer', while buffering the initiating user's speech signal, the PTT server working to establish a terminating RTP leg with a terminating mobile station; and in response to establishment of the terminating RTP leg with the terminating mobile station, the PTT server transmitting the initiating user's speech signal from the PTT server buffer via the terminating RTP leg to the terminating mobile station."

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tilahun B Gesesse whose telephone number is 571-272-7879. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 571-272-7882.

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The Central FAX Number will change to 571-273-8300. This new Central FAX Number is the result of relocating the Central FAX server to the Office's Alexandria, Virginia campus.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

16/28/05
J. H. Geesesse
J. HUN GESESSE
JARY EXAMINER